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SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
—CONTROL AND OPERATING LEASES/AGREEMENTS—
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 164

Decided: August 10, 2000

In Decision No. 89, served July 23, 1998,¹ we required applicants to negotiate with the State of Ohio (by and through the Ohio Attorney General, the Ohio Rail Development Commission (ORDC), and the Public Utilities Commission of Ohio (PUCO)) regarding highway/rail at-grade crossing improvements.² In Decision No. 129, served June 16, 1999, we accepted the Railroad Corridor Agreement (Agreement) dated May 17, 1999, entered into by CSX, PUCO, and ORDC. In that decision, the Agreement was added to the list of Negotiated Agreements entered into by CSX in Environmental Condition No. 51 of Appendix Q of Decision No. 89 (slip op. at 420), and superseded Environmental Condition No. 8(A) with respect to the 20 highway/rail at-grade crossings located in the State of Ohio which are listed under “CSX” (slip op. at 395-96).

By letter filed July 10, 2000, CSX advises that the parties request Board approval of an amendment to the Agreement with respect to a crossing in Tontogany, OH. The Agreement had provided that the Washington Street crossing in Tontogany (155798S) would be evaluated for closure and, if the parties decided that the crossing would not be closed, the crossing would be upgraded to flashing lights and gates. CSX states that the Village of Tontogany did not agree to close the Washington Street crossing, but in lieu of upgrading that crossing to flashing lights and

¹ In Decision No. 89, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail, Inc., and Consolidated Rail Corporation (collectively, Conrail) and the division of Conrail’s assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as applicants.

² The original deadline to complete negotiations was within 120 days of the effective date of our decision or by December 20, 1998. At the request of CSX and the State of Ohio, this date was extended several times.

gates, it has requested that the Broad/Wall Street crossing (155796D) in Tontogany be upgraded to flashing lights and gates.³ CSX advises that PUCO and ORDC concur in the request, and that it does not object.⁴

The parties' request is reasonable and will be granted. Accordingly, we approve an amendment to the Agreement to provide that the Broad/Wall Street crossing in Tontogany, OH (155796D), will be upgraded to flashing lights and gates in lieu of the Washington Street crossing (155798S).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The Railroad Corridor Agreement dated May 17, 1999, is amended to provide that the Broad/Wall Street crossing in Tontogany, OH (155796D), will be upgraded to flashing lights and gates in lieu of the Washington Street crossing (155798S).
3. This decision shall be effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary

³ In its July 10, 2000 submission to the Board, CSX enclosed a letter dated November 22, 1999, from the Village of Tontogany to ORDC confirming that, because of the limited funding available to improve the safety conditions in Tontogany, the Village has determined that the Broad/Wall Street crossing has more traffic volume and visibility, and would therefore appear to have a higher priority for improvement than the Washington Street crossing.

⁴ CSX enclosed with its July 10, 2000 submission, the following letters concerning the parties' request for an amendment to the Agreement: (1) letter from Susan J. Kirkland (ORDC) to Honorable Melvin Mehring, Mayor, Village of Tontogany, dated November 1, 1999; and (2) letter from William S. Tompos (ORDC) to Hugh Hopkins (CSX), dated January 25, 2000. CSX adds that it has been authorized to represent that PUCO concurs in the parties' request for an amendment to the Agreement.